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09/501,196	02/10/2000	Martin King		3525

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EXAMINER

LE, HIEU C

ART UNIT

PAPER NUMBER

2153

DATE MAILED: 08/27/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
09/501,196

Applicant(s)
King et al.

Examiner
Le, Hieu

Art Unit
2153



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Jun 19, 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 6) ☐ Other:

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DETAILED ACTION

1. The request filed on 06/19/02 for a Continued Prosecution Application (CPA) under 37 CFR 1.53(d) based on parent Application No. 08/087552 is acceptable and a CPA has been established. An action on the CPA follows.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 2-7, 9, 11-18, 20, 22-23 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Claim 2, recites "wherein said sending device automatically records all notifications sent to and received from said receiving device, and whereby said receiving device automatically records all notifications sent to and received from said sending device" lines 1-4. There is no disclosure in the specification of a sending device that automatically records all notifications sent to and received from the receiving device and a receiving device automatically records all notifications sent to and received from the sending device, nor how to perform it.

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Claim 3, recites “whereby said sending device forwards the electronic document to the plurality of receiving devices in a single multicast transmission, and whereby said sending device automatically records all notifications sent to and received from said receiving device, and whereby said receiving device automatically records all notifications sent to and received from said sending device.” lines 4-8. There is no disclosure in the specification of sending device forwards the electronic document to the plurality of receiving devices in a single multicast transmission, and whereby said sending device automatically records all notifications sent to and received from said receiving device, nor how to perform it.

Claim 4, recites “wherein said sending device waits for a time-out of collection of said notifications and forwards the electronic document” lines 1-3. There is no disclosure in the specification of sending device waits for a time-out of collection of said notifications and forwards the electronic document, nor how to perform it.

As to claim 5, refer to claim 3 rejection.

As to claim 6, refer to claim 2 rejection.

As to claim 7 recites “whereby said sending device will forward the electronic document to said receiving device, and whereby said sending device automatically records all notifications sent to and received from said receiving device, and said receiving device automatically records all notifications sent to and received from said sending device.” lines 5-8. There is no disclosure in the specification of sending device will forward the electronic document to said receiving device, and whereby said sending device automatically records all notifications sent to and received from

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said receiving device, and said receiving device automatically records all notifications sent to and received from said sending device, nor how to perform it.

Claim 9, recites “whereby said sending device automatically records all notifications sent to and received from said receiving device, and said receiving device automatically records all notifications sent to and received from said sending device.” lines 6-9. There is no disclosure in the specification of whereby said sending device automatically records all notifications sent to and received from said receiving device, and said receiving device automatically records all notifications sent to and received from said sending device, nor how to perform it.

Claim 11, recites “ wherein the network functions to allow said receiving device to send a notification searching for said sending device, wherein said sending device replies with a notification of time when network capacity is substantially free to said receiving device, said receiving device then requests at the notified time directly to said sending device, whereby said sending device will forward the electronic document to said receiving device, and whereby said sending device automatically records all notifications sent to and received from said receiving device, and said receiving device automatically records all notifications sent to and received from said sending device”, lines 1-7. There is no disclosure in the specification of wherein the network functions to allow said receiving device to send a notification searching for said sending device, wherein said sending device replies with a notification of time when network capacity is substantially free to said receiving device, said receiving device then requests at the notified time directly to said sending device, whereby said sending device will forward the electronic document

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to said receiving device, and whereby said sending device automatically records all notifications sent to and received from said receiving device, and said receiving device automatically records all notifications sent to and received from said sending device, nor how to perform it.

As to claim 12, refer to claim 2 rejection.

As to claim 13, refer to claim 2 rejection.

As to claim 14, refer to claim 3 rejection.

As to claim 15, refer to claim 4 rejection.

As to claim 16, refer to claim 5 rejection.

As to claim 17, refer to claim 6 rejection.

As to claim 18, refer to claim 7 rejection.

As to claim 20, refer to claim 9 rejection.

As to claim 22, refer to claim 11 rejection.

As to claim 23, refer to claim 12 rejection.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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5. Claims 1-2, 6, 8, 13, 17, & 19 are rejected under 35 U.S.C. 102(b) as anticipated by Stumm [U.S. Pat. 5,768,528].

As to claim 1, Stumm discloses an apparatus for delivering an electronic document, comprising of:

A. a sending device which functions to send an electronic document [a server system (Fig. 1, item 201 sends information relates to news articles (documents) (col. 4, lines 2-4)];

B. at least one receiving device, which functions to receive the electronic document from the sending device [subscribers (fig. 1, items 26-1, ... 26-n)]; and

C. a network between the sending device (Fig. 1, item 22), and the at least one receiving device, functioning to allow the sending device to send a notification to the receiving device, and wherein the receiving device sends a notification to the sending device whereby the sending device forwards the electronic document to the receiving device [server 20 sends a schedule of events file to the subscribes, so the subscribers would be able to communicate with the server at predetermined schedules (notification from sending device (server) to receiving device (subscriber) (Abstract, lines 5-8, col. 9, lines 48-51), the subscriber's software (receiver) launches a request for information (notification sent to server) at a predetermined time according to the schedule to download the file data (Abstract, lines 8-14, col. 3, lines 51-57)].

As to claim 2, [as best understood by the Examiner] Stumm further discloses, wherein the sending device automatically records all notifications sent to and received from the receiving device, and whereby the receiving device automatically records all notifications sent to and

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received from the sending device [server (sending device) is coupled to a database 16 that stores various data intended for use by subscribers, schedules, for subscribers, updates (all notifications sent to or received from receiving device) (col. 3, lines 32-35, col. 4, lines 23-38), subscriber (receiving device) has a scheduler and a log file to store all communications and events (notification) between the server and the subscriber (col. 2, lines 21-31, col. 5, lines 46-53, Fig. 3, item 62).

As to claim 6, [as best understood by the Examiner] refer to claim 2 rejection for their common features, Stumm further discloses a network (Fig. 1, item 22), that allows the sending device (server) to send a document to the receiving device (subscriber) (col. 3, line 51-col. 4, line 4).

As to claim 8, Stumm further discloses wherein the receiving device is one of a community of receiving devices [the subscriber computer (receiving device) is part of a local network (one of community of receiving devices) (col. 9, lines 60-61)].

As to claim 13, refer to claim 2 rejection.

As to claim 17, refer to claim 6 rejection.

As to claim 19, refer to claim 8 rejection.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are

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such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 3, 5, 10, 11, 14, 16, 21-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stumm [U.S. Pat. 5,768,528] in view of Christie et al [U.S. Pat. 6,182,117].

As to claim 3, [as best understood by the Examiner] Stumm further discloses, wherein the network functions to allow the sending device to send a notification to a plurality of receiving devices, wherein each receiving device sends a notification to the sending device, and whereby the sending device waits for a notification, and whereby the sending device forwards the electronic document to the plurality of receiving devices and whereby the sending device automatically records all notifications sent to and received from the receiving device, and whereby the receiving device automatically records all notifications sent to and received from the sending device [a server (fig. 1, item 20) sends a schedule of events file to the subscribers (receiving devices), so the subscribers would be able to communicate with the server (sender send a notification to a plurality of receiving devices) (Abstract, lines 5-8, col. 9, lines 48-51), each subscribe software (each receiver) launches a request for information (notification sent to the server) at a predetermined time, according to the schedule to download the file data (document) (Abstract, lines 8-14, col. 3, lines 51-57). The sending device (server) is coupled to a database 16 that stores various data intended for user by subscriber, schedules for subscribers, updates (all notifications sent to or received from the receiving device (subscriber) (col. 3, lines 32-35, col. 4, lines 23-38). Subscriber (receiving device) has a scheduler and a log file to store all communications & events (notification

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sent by or received from the sender (server) (col. 2, lines 21-31 & col. 5, lines 46-53, fig. 3, item 62)].

Stumm does not disclose that the notification to the plurality of receiving devices in a single multicast transmission.

Christie discloses an e-mail system that provides the ability to re assemble objects at a replication site such that an object and all of its dependencies exist prior to the objects uses at the site. Messages referred to as "ACK" message (notification messages) are used to communicate a site's state and provide other control information (col. 2, lines 41-48). A process known as multicasting can be used to send one replication message (notification messages) to all of the necessary sites (i.e single multicast transmission) (col. 5, lines 29-32).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use Christie's teachings to modify Stumm's apparatus by sending the notification to the plurality of receiving sites in a single multicast transmission in order to communicate the sender site's state and other control information to the receives which does not require additional work to communicate with each receiver separately.

As to claim 5, refer to claim 3 rejection for their common features. Both Christie and Stumm disclose at least one receiver (col. 3, line 51-col. 4, line 4).

As to claim 10, Stumm does not disclose that the receiving device is not a member of a sending devices community.

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Christie discloses an e-mail system that provides the ability to re assemble objects at a replication site such that an object and all of its dependencies exist prior to the objects uses at the site. Messages referred to as "ACK" message (notification messages) are used to communicate a sit's state and provide other control information (col. 2, lines 41-48). A process known as multicasting can be used to send one replication message (notification messages) to all of the necessary sites (i.e single multicast transmission) (col. 5, lines 29-32). Christie's invention can be used with mixed e-mail systems (col. 9, lines 37-43), a work station (receiver) 322 which is not a member of the forum (community) and "AKC" messages are sent to gain membership to forum (col. 11, lines 52-62).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use Christie's teachings to modify Stumm's apparatus by enabling non member receiving devices to gain member ship to the forum in order to enhance the ability to deliver e-mail service and access to documents among the members of a workgroup (community) and other remotely located workgroup on another network.

As to claim 11, Christie further discloses that sending device sends a notification to the receiving device comprising a direct reference to become a member of a sending device community, wherein the receiving device executes the direct reference and becomes a member of the sending device community, whereby the sending device automatically records all notifications sent to and received from the receiving device, and the receiving device automatically records all

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notifications sent to and received from the sending device (col. 9, lines 37-43, col. 11, lines 52-62).

As to claim 14, refer to claim 3 rejection.

As to claim 16, refer to claim 5 rejection.

As to claim 21, refer to claim 10 rejection.

As to claim 22, refer to claim 11 rejection.

8. Claims 4, 9, 15, 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stumm [U.S. Pat. 5,768,528] in view of Christie et al [U.S. Pat. 6,182, 117] and further in view of Ramanathan et al. [US. Pat. No. 5,913, 041].

As to claim 4, Stumm does not disclose that the sending device waits for a time-out of collection of the notifications and forwards the electronic document to the plurality of the receiving devices in a single multicast transmission.

Christie discloses an e-mail system that provides the ability to re assemble objects at a replication site such that an object and all of its dependencies exist prior to the objects uses at the site. Messages referred to as "ACK" message (notification messages) are used to communicate a sit's state and provide other control information (col. 2, lines 41-48). A process known as multicasting can be used to send one replication message (notification messages) to all of the necessary sites (i.e single multicast transmission) (col. 5, lines 29-32).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use Christie's teachings to modify Stumm's apparatus by sending the notification to the plurality of receiving sites in a single multicast transmission in order to communicate the sender

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site's state and other control information to the receives which does not require additional work to communicate with each receiver separately.

Christie does not disclose the sending device waits for a time-out of collection of the notifications. However, sending data from a server during a time- out is well known in the art as disclosed by Ramanathan. Ramanathan discloses a method of managing a data access system where transfer of data between a content server and a remote site of user includes the data transfer size and the transfer times (duration) (col. 3, lines 12-24). The server transfer data during a time-out period (col. 9, lines 9-12).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use Ramanathan's teachings to modify the combined apparatus of Stumm and Christie by sending the notifications of transfer time (duration) to the user during a time-out in order to more efficiently allocate the existing resources based upon the calculation of data throughput to the user according to the transfer sizes and times.

As to claim 15, refer to claim 4 rejection.

As to claim 9, refer to claim 3 rejection for their common features. Neither Christie nor Stumm disclose that the notified time is the time when network capacity is free to the receiving device.

Ramanathan discloses a method of managing a data access system where transfer of data between a content server and a remote site of user includes the data transfer size and the transfer times (duration) (col. 3, lines 12-24). The server transfer data during a time-out period (col. 9,

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lines 9-12). Data transfer rates are correlated with one or more factors of interest, the factor of interest may be a time related or date related in order to determine whether the resources (throughput) of the system are being taxed at particular times (col. 7, lines 31-44).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use Ramanathan's teachings to modify the combined apparatus of Stumm and Christie by notifying the receiver about the times that (throughput) of the network are substantially free to send the data to the receiver in order to more efficiently allocate the existing resources (throughput) based upon the particular days of the week without the system being taxed.

As to claim 20, refer to claim 9 rejection.

9. Claims 7, 12, 18, 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stumm [U.S. Pat. 5,768,528] in view of Ramanathan et al. [US. Pat. No. 5,913, 041].

As to claim 7, Stumm further discloses that the network functions to allow the receiving device to send a notification searching for the sending device, wherein the sending device replies with a notification of time [subscriber 26 (receiver) sends a request (notification) for information from a server 20 (sending device), the server sends a schedule of events files, so the subscriber would be able to communicate with the server according to a predetermined schedule (notification of time) (Abstract, lines 5-8, col. 9, lines 48-51)], the receiving device then requests at the notified time directly to the sending device, whereby the sending device will forward the electronic document to the receiving device, and whereby the sending device automatically records all notifications sent to and received from the receiving device, and the receiving device

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automatically records all notifications sent to and received from the sending device [the subscriber sends a request for the information at the predetermined time according to the schedule received from server (Abstract, lines 8-14, col. 3, lines 51-57) the server stores schedules for subscribers updates (all notifications sent and received from the receiving device) in a database 16 (col. 13, lines 32-35, col. 4, lines 23-38). Subscriber (receiving device) has a log file to store all communications and events (notifications sent and received from the sending device) (col. 2, lines 21-31 & col. 5, lines 46-53, Fig. 3, item 62).

Stumm does not disclose that the notified time is the time when network capacity is substantially free to the receiving device.

Ramanathan discloses a method of managing a data access system where transfer of data between a content server and a remote site of user includes the data transfer size and the transfer times (duration) (col. 3, lines 12-24). The server transfer data during a time-out period (col. 9, lines 9-12). Data transfer rates are correlated with one or more factors of interest, the factor of interest may be a time related or date related in order to determine whether the resources (throughput) of the system are being taxed at particular times (col. 7, lines 31-44).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use Ramanathan's teachings to modify Stumm's apparatus by notifying the receiver about the times that (throughput) of the network are substantially free to send the data to the receiver in order to more efficiently allocate the existing resources (throughput) based upon the particular days of the week without the system being taxed.

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As to claim 12, Stumm discloses an apparatus for automatic management and allocation of network traffic based on requests to use network capacity comprising of:

A. a sending device, which functions to send an electronic document [a server system (Fig. 1, item 20) sends information relates to news articles (documents) (col. 4, lines 2-4)];

B. a database which functions to store reservations for sending the electronic document [database 16 stores schedules for sending the documents (col. 2, lines 21-31, & col. 5, lines 46-53, Fig.3, item 62)];

D. at least one receiving device, which functions to receive the electronic document [subscribers (Fig. 1, items 26-1,...26-n)].

E. a network between the sending device and receiving devices, wherein the sending device automatically records all notifications sent to and received from the receiving device, and whereby the receiving device automatically records all notifications sent to and received from said sending device [server 20 sends a schedule of events file to the subscribers, so subscribers would be able to communicate with the server at predetermined schedules (col. 9, lines 48-51), server (sending device) is coupled to database 16 that stores schedules for subscribers, updates (all notifications sent to or received from receiving device) (col. 3, lines 32-35, col. 4, lines 23-38). Subscriber (receiving device) has a scheduler and log file to store all communications and events between the server and the subscriber (col. 2, lines 21-31 & col. 5, lines 46-53, fig. 3, item 62)].

Stumm does not disclose,

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C. a channel manager, which comprises a plurality of algorithms which function to calculate a time to send the electronic document and wherein transactions to send document transfers are managed through a channel manager and a bandwidth database. Ramanathan discloses a method of managing a data access system where transfer of data between a content server and a remote site of user includes the data transfer size and the transfer times (duration) (col. 3, lines 12-24). The system computes transfer time based on the data transfer size and throughput (bandwidth) calculations are correlated with the time of day and stored in server 22, 20, 18 (col. 7, lines 7-44 & fig. 2].

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use Ramanathan's teachings to modify Stumm's apparatus by calculating times to transfer data and correlate it with network (channel) throughput (bandwidth) in order to more efficiently allocate the existing resources (throughput) based on the particular times of the day without the system being taxed.

As to claim 18, refer to claim 7 rejection.

As to claim 23, refer to claim 12 rejection.

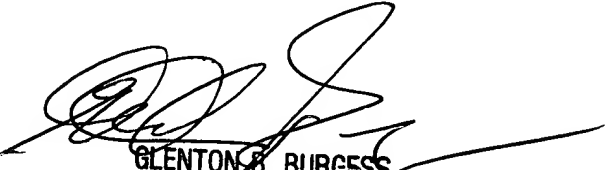
10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hieu Le whose telephone number is (703) 3 06-3101. The examiner can normally be reached on Monday to Friday from 7:30 AM to 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenton Burgess, can be reached on (703) 305-4792. The fax phone number for this Group is

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(703)) 308-9051.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305 3900



GLENTON B. BURGESS
SUPERVISORY PATENT EXAMINER
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